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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,972	10/05/2005	Yoshimi Enomoto	JP 03005	3602
24737 7590 01/07/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
LEWIS, JONATHAN V				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
01/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,972

Applicant(s)

ENOMOTO, YOSHIMI

Examiner

JONATHAN LEWIS

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 05 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to applicant's amendment filed September 16, 2008. Claims 1-20 are still pending in the present application. **This action is made FINAL.**

Response to Arguments

Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. (US Pat. No. 7,254,312) in view of Rodriguez et al. (US PG Pub. No. 2002/0168178).

Regarding claim 1 (currently amended), Yamada et al. teaches a data recording/reproducing device provided with a processor for receiving data including video data (Fig. 2 shows the recording device with transport processor 25 to receive data), first additional information to control a copy of the video data and second additional information to control a type of recording and/or reproducing the video data and for processing the received data (col. 13, lines 59-65), the processor having a

recording portion capable of carrying out recording in a permanent recording mode for permanently recording the received video data or in a temporary recording mode for temporarily recording the received video data (Fig. 8).

Yamada et al. teaches all the claim limitations as stated above, except said processor comprises: means for receiving a user input for determining whether the video data is to be recorded with changing from the permanent recording mode to the temporary recording mode.

However, Rodriguez et al. teaches said processor comprises: means for receiving a user input for determining whether the video data is to be recorded with changing from the permanent recording mode to the temporary recording mode (page 13, 0095; pages 19-20, 0149).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to receive a user input to determine whether the video data is to be temporary or permanent recordings, in order to determine the priority of data to be kept when buffering more than one channel, giving the user greater flexibility to view multiple programs of interest simultaneously.

Yamada et al. in view of Rodriguez et al. teaches all the claim limitations as stated above, except without recording being performed in the permanent recording mode, when never copy information is received as the first additional information and information of the permanent recording mode is received as the second additional information; and means for instructing to record the video data on the recording portion

in the temporary recording mode when it is determined by said determining means to record the video data with changing to the temporary recording mode.

However, Yamada et al. teaches without recording being performed in the permanent recording mode, when never copy information is received as the first additional information and information of the permanent recording mode is received as the second additional information (Fig. 7; Fig. 8); and means for instructing to record the video data on the recording portion in the temporary recording mode when it is determined by said determining means to record the video data with changing to the temporary recording mode (Fig. 8; col. 14, lines 12-14)).

Regarding claim 3, Yamada et al. in view of Rodriguez et al. teaches all the claim limitations as stated above, except that said processor has an ability to perform recording and reproducing at the same time, and further comprises means for instructing to start reproducing the video data temporarily recorded on the recording portion before the end of recording in the temporary recording mode when the change from the permanent recording mode to the temporary recording mode is made and means for erasing the video data in the recording portion immediately after information about stop of storing in the temporary recording mode is received.

However, Yamada et al. teaches that said processor has an ability to perform recording and reproducing at the same time (Fig. 17), and further comprises means for instructing to start reproducing the video data temporarily recorded on the recording portion before the end of recording in the temporary recording mode when the change from the permanent recording mode to the temporary recording mode is made and

means for erasing the video data in the recording portion immediately after information about stop of storing in the temporary recording mode is received (Fig. 13).

Method and computer readable medium claims 4 and 5 are rejected for the same reasons as stated in the corresponding device claim.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. (US Pat. No. 7,254,312) in view of Rodriguez et al. (US PG Pub. No. 2002/0168178) in further view of Ryan (US Pat. No. 5,574,787).

Regarding claim 2, Yamada et al. in view of Rodriguez et al. teaches all the claim limitations as stated above, except that the video data is analog data.

However, Ryan teaches that the video data is analog data (abstract; col. 4, lines 40-58).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to have video data that was analog, in order to ensure an easy transition from analog to digital when mixing newer digital technologies, such as DVDs with older ones, such as VCRs.

Claims 6-9, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsui et al. (US Pat. No. 6,802,074) in view of Okamoto et al. (US PG Pub. No. 2003/0077074) in further view of Goto et al. (US PG Pub. No. 2002/0037151).

Regarding claim 6, Mitsui et al. teaches video recording device comprising: a receiving unit that is configured to receive video content and associated copy control information (Fig. 3; col. 5, lines 30-51).

Mitsui et al. teaches all the claim limitations as stated above, except a recording unit that is configured to record the received video content regardless of the copy control information.

However, Okamoto et al. teaches a recording unit that is configured to record the received video content regardless of the copy control information (page 1, 0010).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to ensure a user is able to watch a broadcast program at least once, even if they are not permitted to copy or record the program.

Mitsui et al. in view of Okamoto et al. teaches all the claim limitations as stated above, except a presentation unit that is configured to present the recorded video content for display, to allow time-shifted playback of the received video content.

However, Goto et al. teaches a presentation unit that is configured to present the recorded video content for display, to allow time-shifted playback of the received video content (page 1, 0014).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to allow time-shifted playback of recorded content in order to allow a user to view broadcast programming with a delay, adding the convenience of watching the program whenever he/she would like.

Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except an erasing unit that is configured to erase the recorded video content after a first presentation of the recorded video content if the copy control information indicates never-copy.

However, Okamoto et al. teaches an erasing unit that is configured to erase the recorded video content after a first presentation of the recorded video content if the copy control information indicates never-copy (page 1, 0010).

Regarding claim 7, Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except the recording unit is selectively enabled and disabled based on a user input, and the video recording device is configured to solicit the user input upon receipt of copy control information that indicates never-copy.

However, Okamoto et al. teaches the recording unit is selectively enabled and disabled based on a user input, and the video recording device is configured to solicit the user input upon receipt of copy control information that indicates never-copy (page 1, 0010).

Regarding claim 8, Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except the erasing unit is also configured to erase the recorded video content if the recorded video content is not presented before an end of receiving the video content with copy control information that indicates never-copy.

However, Okamoto et al. teaches the erasing unit is also configured to erase the recorded video content if the recorded video content is not presented before an end of receiving the video content with copy control information that indicates never-copy (page 1, 0010).

Regarding claim 9, Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except the recording unit is configured to record the received video content only if the presentation unit is enabled to present the recorded video content.

However, Okamoto et al. teaches the recording unit is configured to record the received video content only if the presentation unit is enabled to present the recorded video content (page 1, 0010).

Method claims 13-16 are rejected for the same reasons as stated above in the corresponding apparatus claim.

Claims 10-11, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsui et al. (US Pat. No. 6,802,074) in view of Okamoto et al. (US PG Pub. No. 2003/0077074) in further view of Goto et al. (US PG Pub. No. 2002/0037151) in further view of Hicks, III et al. (US PG Pub. No. 2004/0255326).

Regarding claim 10, Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except the received video content is an analog audiovisual signal, and the associated copy control information is a macro-vision signal that is added to the analog audiovisual signal.

However, Hicks, III et al. teaches the received video content is an analog audiovisual signal, and the associated copy control information is a macro-vision signal that is added to the analog audiovisual signal (page 5, 0049).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to add a macrovision signal to an analog a/v signal,

in order to ensure that the programming provider retains control over what can and cannot be recorded for future usage.

Regarding claim 11, Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except the received video content is an analog audiovisual signal, and the associated copy control information is Copy Generation Management System (CGMS) data that is added to the analog audiovisual signal.

However, Hicks, III et al. teaches the received video content is an analog audiovisual signal, and the associated copy control information is Copy Generation Management System (CGMS) data that is added to the analog audiovisual signal (page 5, 0049).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to add CGMS data to an analog a/v signal, in order to ensure that the programming provider retains control over what can and cannot be recorded for future usage.

Method claims 17-18 are rejected for the same reasons as stated above in the corresponding apparatus claim.

Claims 12, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsui et al. (US Pat. No. 6,802,074) in view of Okamoto et al. (US PG Pub. No. 2003/0077074) in further view of Goto et al. (US PG Pub. No. 2002/0037151) in further view of Rodriguez et al. (US PG Pub. No. 2002/0168178) in further view of Ryan et al. (US Pat. No. 6,374,036).

Regarding claim 12, Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except the received video content is provided in a digitally encoded data stream.

However, Rodriguez et al. teaches the received video content is provided in a digitally encoded data stream (page 4, 0041).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to provide video content in the form of a digitally encoded data stream, in order to give the content provider greater flexibility with the delivery of advanced features available to the user.

Mitsui et al. in view of Okamoto et al. in further view of Goto et al. in further view of Rodriguez et al. teaches all the claim limitations as stated above, except the associated copy control information is included in a data field of the digitally encoded data stream.

However, Ryan et al. teaches the associated copy control information is included in a data field of the digitally encoded data stream (col. 14, lines 23-37).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to include copy control information in a data field of the encoded stream, in order to give control of the content available to be copied to the service provider.

Regarding claim 20, Mitsui et al. in view of Okamoto et al. in further view of Goto et al. teaches all the claim limitations as stated above, except the user playback control commands include a pause command, a rewind command, and a play command.

However, Rodriguez et al. teaches the user playback control commands include a pause command, a rewind command, and a play command (page 12, 0093; page 13, 0095; Fig. 3D, 388/392/391).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to allow a user to have trick play features, in order to give more enjoyment to the user by giving them control over when the desired programming is watched.

Method claim 19 is rejected for the same reasons as stated above in the corresponding apparatus claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Matsushita US Pat. No. 6,694,022

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN LEWIS whose telephone number is (571)270-3233. The examiner can normally be reached on Mon - Fri 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hunter B. Lonsberry/
Primary Examiner, Art Unit 2421